

IN THE DRAWINGS:

The enclosed sheet of drawings will replace the prior version in the application. Applicant submits that no new matter has been added.

REMARKS

Applicant has carefully reviewed and considered the Office Action of April 7, 2006, including the cited prior art. In response to this Office Action, Applicant respectfully traverses Examiner's rejections of the outstanding claims, and requests reconsideration in view of the argument presented below.

Claim 1 stands rejected under 35 U.S.C. § 102(b) as unpatentable over Dougherty (United States Patent Number 4,937,757). Dougherty discloses a digital circuit interrupter including a microprocessor that utilizes programmable trip curves to determine when to interrupt a monitored circuit. Regarding claim 1 of the present application, Dougherty discloses a means for obtaining current values from a power line, and the adjustment of those values for use by a microprocessor. Dougherty, Abstract. Dougherty also discloses the use of a processor to evaluate current values against a preestablished response curve. Dougherty, Col. 6, Lines 62-68 – Col. 7, Lines 1-20. Dougherty further discloses a number of different trip curves that can be used to build a customized trip curve. Dougherty, FIG. 1. However, Applicant respectfully disagrees with the assertion that Dougherty discloses a response curve including the combination of an inverse time overcurrent curve portion and a thermal limit curve, such that the thermal limit curve controls the time to trip the circuit breaker for fault current values greater than a preselected current value and the overcurrent curve controls the time to trip for fault current values less than the preselected current value. Claim 1 of the present application requires a combined curve meeting all of the limitations stated. FIG. 1 of Dougherty merely shows two curves resembling the two component curves of claim 1. The remainder of Dougherty's disclosure, such as Col. 4, Lines 33-41, merely states that it is possible to tailor a curve to the needs of an individual site, and that an interpolation algorithm will be used to determine the

value of points between points stored in a lookup table. Nowhere in Dougherty is a combined curve with the specific characteristics required by claim 1 of the present application shown. At most, Dougherty discloses a system that could allow for the creation of the combined curve required by claim 1 of the present application.

Anticipation requires that every limitation of a claim must identically appear in a single reference. *Gechter v. Davidson*, 116 F.3d 1454, 1457 (Fed. Cir. 1997). Further, where a limitation does not explicitly appear in a reference, the limitation can be implied only if the limitation is necessary to the invention disclosed. *Transclean Corp. v. Bridgewood Services*, 290 F.3d 1364, 1373 (Fed. Cir. 2002) ("anticipation by inherent disclosure is appropriate only when the reference discloses prior art that must *necessarily* include the unstated limitation....")(emphasis present in original). In this case, the type of curve required by claim 1 of the present application is not necessary to the invention disclosed by Dougherty. The invention disclosed by Dougherty could be used to create numerous curves that do not have the properties required by claim 1 of the present application, and indeed, the specification of Dougherty discusses the process of modifying a single curve. Dougherty, Col. 4, Lines 33-46. Applicant respectfully submits that all limitations required by claim 1 of the present application are not explicitly or inherently disclosed by Dougherty, and therefore, an anticipation rejection relying on Dougherty cannot stand.

Applicant also finds no disclosure of the response curve claimed in claim 1 in Bilac (United States Patent Number 4,672,501). Therefore, an obviousness rejection relying on the combined disclosure of Dougherty and Bilac cannot be sustained. If Examiner should find claim 1 allowable, claims 2 and 4-6 should be allowed as well, as they are dependent on claim 1, and incorporate all of claim 1's limitations. Further, claim 7 is directed to a method of utilizing a

curve with properties identical to that specified in claim 1, and should be allowed for the same reasons as claim 1.

CONCLUSION

Applicant submits that in light of the argument put forth within this response, this application is now in condition for allowance. Applicant therefore requests that a timely Notice of Allowance be issued. However, should Examiner be of the opinion that further amendment or response is required, Applicant encourages Examiner to contact the undersigned attorney at the telephone number set forth below. Further, although no additional fees are believed to be due at this time, the Commissioner is authorized to charge any additional fees or deficiencies or credit any overpayments to Cook, Alex, McFarron, Manzo, Cummings & Mehler, Ltd., Deposit Account No. 50-1039 with reference to attorney docket number 1444-0094.

Respectfully submitted,

COOK, ALEX, McFARRON, MANZO,
CUMMINGS & MEHLER, LTD.

By: 
David Mundt, Reg. No. 41,207

200 West Adams Street, Suite 2850
Chicago, Illinois 60606
Telephone: (312) 984-0144
Facsimile: (312) 984-0146

Dated: June 7, 2006